

City Council Introduction: **Monday**, July 8, 2002
Public Hearing: **Monday**, July 15, 2002, at **1:30 p.m.**

Bill No. 02R-144

FACTSHEET

TITLE: **WAIVER OF DESIGN STANDARDS NO. 02009**, requested by Keith Dubas on behalf of Richard and Tina Speidell, to waive street trees, sidewalks, street paving with curb and gutter, water distribution and street lights, on property located at 4811 Mandarin Circle.

STAFF RECOMMENDATION: Conditional Approval

ASSOCIATED REQUESTS: None

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 06/26/02
Administrative Action: 06/26/02

RECOMMENDATION: Conditional Approval (7-1: Larson, Bills-Strand, Duvall, Newman, Krieser, Carlson and Schwinn voting 'yes'; Taylor voting 'no'; Steward absent).

FINDINGS OF FACT:

1. The staff recommendation of conditional approval is based upon the "Analysis" as set forth on p.4, concluding that the proposed subdivision creates lots which are compatible with the character of the neighborhood. The waivers are acceptable, provided that the owners agree not to object to special assessment districts for water, paving, ornamental street lights and sidewalks.
2. The applicant's testimony is found on p.6. The owners agree not to object to any special assessment districts in the future.
3. The record also consists of a letter in support from the Pioneer/Mar-Ma-Ra-Lo Heights Homeowners Association; however, the Homeowners Association requests that Condition #1.1 be deleted (p.13).
4. There was no testimony in opposition.
5. The Planning Commission agreed with the staff recommendation and voted 7-1 to recommend conditional approval, as set forth in the staff report dated June 11, 2002. The agreement not to object to any special assessment districts applies only to this parcel of land and would not affect the rights of other property owners in the neighborhood.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: July 1, 2002

REVIEWED BY: _____

DATE: July 1, 2002

REFERENCE NUMBER: FS\CC\2002\WDS.02009

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

P.A.S.: Waiver of Design Standards #02009

DATE: June 11, 2002

PROPOSAL: A request to waive Design Standards for street trees, sidewalks, street paving with curb and gutter, water distribution, and street lights.

LAND AREA: 2.19 acres, more or less

CONCLUSION: The proposed subdivision creates lots which are compatible with the character of the neighborhood.

The waivers are acceptable, provided that the owners agree not to object to Special Assessment Districts for water, paving, ornamental street lights and sidewalks.

RECOMMENDATION:

Conditional Approval

GENERAL INFORMATION:

LEGAL DESCRIPTION: Lot 4, Block 2, Pioneer Heights and the ½ of vacated Capitol Parkway adjacent thereto and Outlot A Pioneer Heights and the ½ of vacated Capitol Parkway adjacent thereto, all located in the NE 1/4 of Section 10, T10N, R7E of the 6th P.M., City of Lincoln, Lancaster County, Nebraska.

LOCATION: 4811 Mandarin Circle

APPLICANT: Richard and Tina Speidell
3820 "J" Street
Lincoln, NE 68510

OWNER: same

CONTACT: Keith Dubas
1712 "E" Street - #1
Lincoln, NE 68508
(402) 438-0171

EXISTING ZONING: R-3 Residential

EXISTING LAND USE: Single family dwelling with an approved C.U.P. for 3 single family dwellings.

SURROUNDING LAND USE AND ZONING:

North: R-3 single family
South: R-3 fields
East: R-3 single family
West: R-3 fields and lakes - future single family under The Preserve preliminary Plat

HISTORY:

On **August 29, 2001**, the Planning Director approved Pioneer Heights 1st Addition administrative final plat on the abutting property to the northwest. This plat, which split one lot into two lots, was permitted because of the waivers granted on June 8, 2001.

On **June 8, 2001**, City Council approved Waiver of Design Standards #01005 on the abutting property to the northwest. This approval waived sidewalks, water distribution, street trees, paved streets with curb and gutter, and street lighting.

On **January 22, 2001**, City Council approved Special Permit #1830A, which amended the Mandarin Court CUP to reduce the width of the private roadway within the CUP.

On **August 28, 2000**, the City Council approved the Mandarin Court CUP, Special Permit #1830 for three single family dwelling units.

On **July 20, 1998**, City Council approved Annexation #98011, which annexed the properties along Mandarin Circle, as well as land to the north, southeast and south.

On **December 19, 1994**, the City Council approved Special Permit #1498 and Preliminary Plat #94003 for the Pagoda Pines CUP, which allowed 7 dwelling units on the southeast corner of Pioneers Blvd and Pagoda Dr.

During the **1979** Zoning Update this area was converted from A-1 Single Family Dwelling District to R-3 Residential.

On **November 1, 1962**, City Council approved the Pioneer Heights Final Plat, which covered the south portion of Mandarin Circle.

On **January 14, 1957**, City Council approved the Mar-Ma-Ra-Lo Heights Final Plat to the north, which included the northern portion of Mandarin Circle as well as Pagoda Lane.

COMPREHENSIVE PLAN SPECIFICATIONS: The 2025 Comprehensive Plan designates this area as Urban Residential. The Guiding Principles for Existing Neighborhoods state:

Require new development to be compatible with character of neighborhood and adjacent uses. (F 77)

UTILITIES: The sanitary sewer is in place to serve these lots. Individual wells are the water source.

TRAFFIC ANALYSIS: Mandarin Circle is classified as a local residential street in the 2025 Comprehensive Plan.

PUBLIC SERVICE: The nearest fire station is located near S. 84th and South Streets.

ANALYSIS:

1. The applicant is requesting waivers of street paving with curb and gutter, sidewalks, street trees, water distribution, and street lights. This application is associated with Administrative Amendment #02039, which rescinds the Mandarin Court Community Unit Plan. The applicant has to submitted an administrative final plat for two lots (the CUP had three lots).
2. The Mandarin Court CUP required a connection to City water but waived curb and gutter, sidewalks, and street lights.
3. Parks & Recreation recommends approval of the waiver of street trees because of the existing trees in the front yard of the property - there is not any room to plant additional street trees.
4. Public Works & Utilities does not object to waivers of sidewalks, street paving, curb and gutter, water distribution and street paving due to the rural cross-section of Mandarin Circle, contingent upon the owners agreeing not to object to a Special Assessment District.
5. Fire protection in this area is provided by the Lincoln Fire Department with the Southeast Rural Fire District for water tanker response.
6. In their response to the request for Waiver of Design Standards #01005, the Health Department noted that this area was annexed and hooked into the City sewer system because of sewage system problems and Nitrate/Nitrogen contamination of some wells in the area. Because Nitrate/Nitrogen continues to move through the soil profile over several years further groundwater contamination is possible. If groundwater contamination affects residential wells in the area, water lines would likely be extended through the neighborhood.
7. The Planning Department recommended conditional approval for Wavier of Design Standards #01005 because the applicant agreed to construct water lines at the same time as the water lines for the Mandarin Court CUP and that the owners agreed not to object to the creation of an assessment district, whichever occurs first.
8. This parcel is the only parcel larger than two acres in the Pioneer Heights/Mar-Ma-Ra-Lo Heights neighborhood. The proposed subdivision would create lots of approximately the same size as others in the area: 22 of 29 parcels are between one and one and a half acres in size.
9. The waivers are acceptable, provided that the owners agree not to object to Special Assessment Districts for paving, water, ornamental street lights and sidewalks.

CONDITION OF APPROVAL

- 1.1 The owners agree not to object to the creation of Special Assessment Districts for paving, water, ornamental street lights and sidewalks.

Prepared by:

Jason Reynolds
Planner

WAIVER OF DESIGN STANDARDS NO. 02009

PUBLIC HEARING BEFORE PLANNING COMMISSION:

June 26, 2002

Members present: Larson, Taylor, Bills-Strand, Duvall, Newman, Krieser, Carlson and Schwinn; Steward absent.

Staff recommendation: Conditional approval.

This application was removed from the Consent Agenda and had separate public hearing.

Jason Reynolds of Planning staff presented a letter from Gary Danek, President of the Pioneer/Mar-Ma-Ra-Lo Heights Homeowners Association, in support, but requesting that Condition #1.1 be removed, which requires that the owners agree not to object to the creation of Special Assessment Districts for paving, water, ornamental street lights and sidewalks in the future.

Reynolds advised that Condition #1.1 applies only to the owners of this particular parcel. The rest of the neighborhood has their right to object to any assessment districts.

Proponents

1. Keith Dubas appeared on behalf of the applicants. He has spoken with the owners and they do agree to the condition of approval regarding assessment districts.

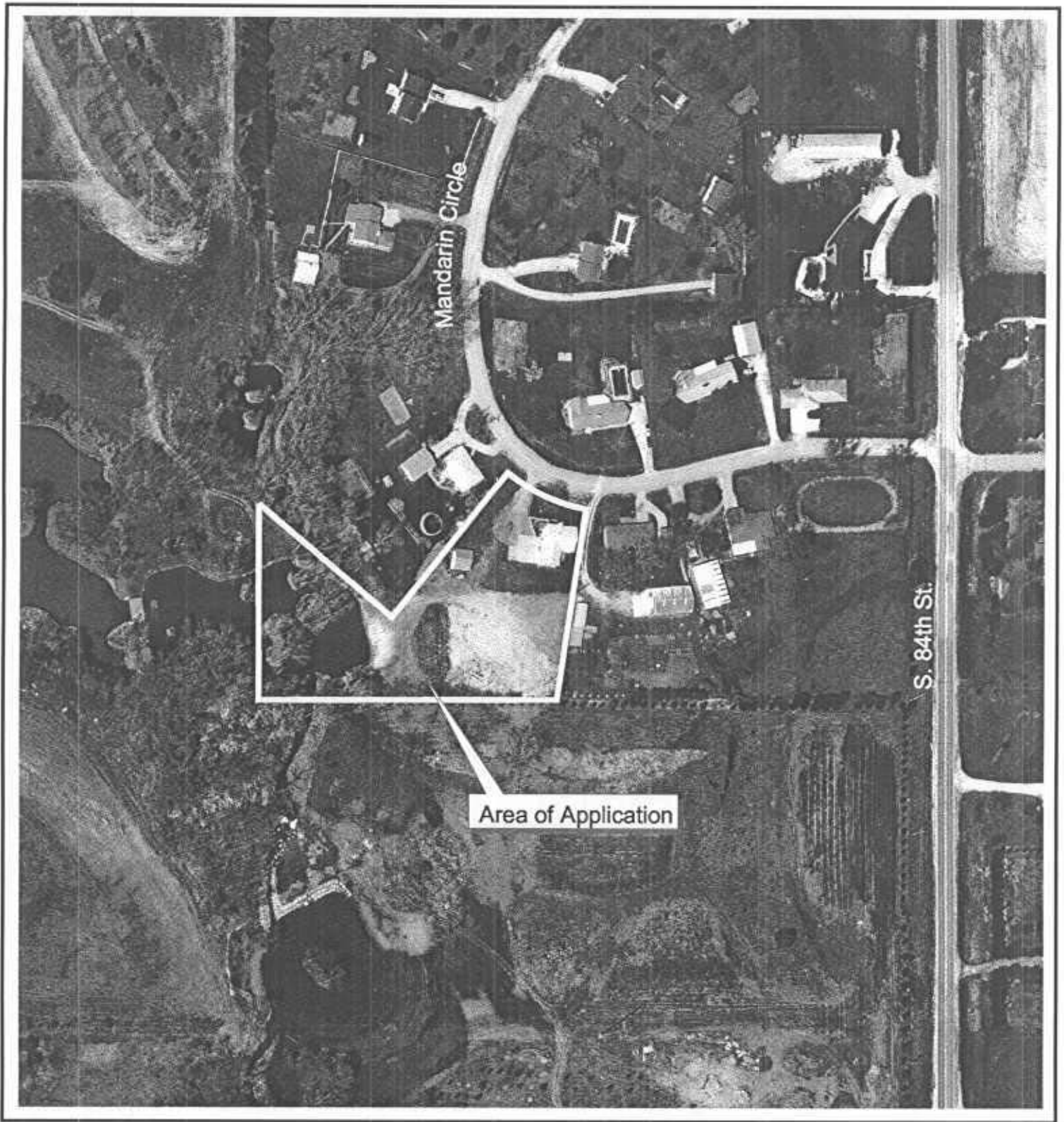
There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

June 26, 2002

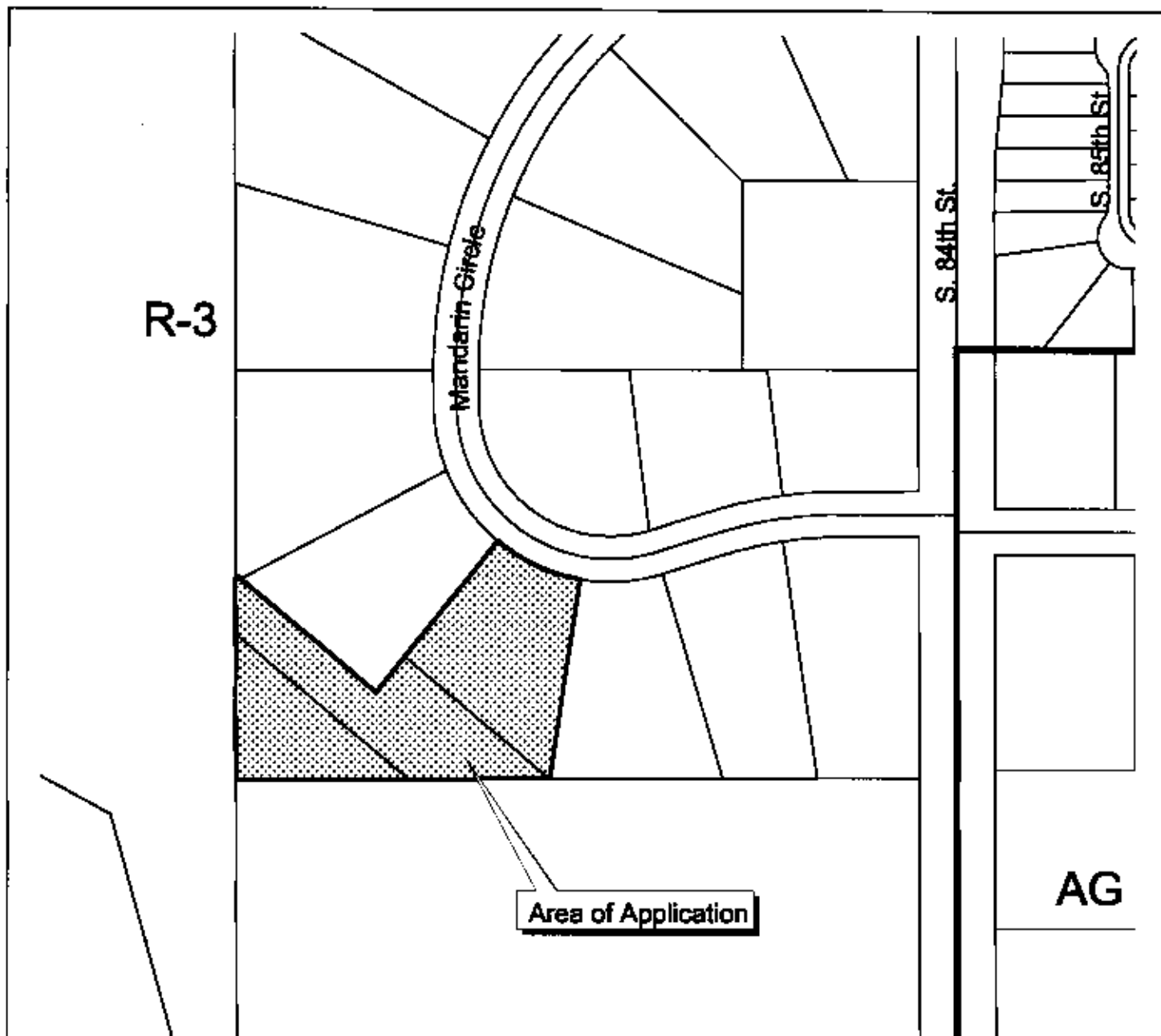
Larson moved to approve the staff recommendation of conditional approval, seconded by Duvall and carried 7-1: Larson, Bills-Strand, Duvall, Newman, Krieser, Carlson and Schwinn voting 'yes'; Taylor voting 'no'; Steward absent.



Waiver of Design Standards #02009
S. 84th St. & Mandarin Circle



007



Waiver of Design Standards #02009 S. 84th St. & Mandarin Circle

Zoning:

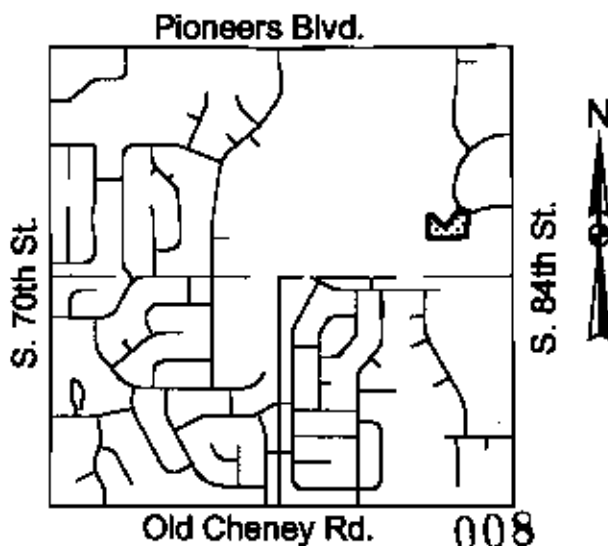
R-1 to R-4	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-6	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile
Sec. 10 T9N R7E

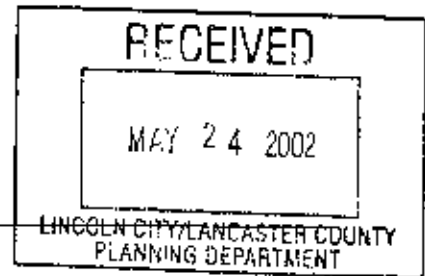


Zoning Jurisdiction Lines

City Limit Jurisdiction



M e m o r a n d u m



To: Jason Reynolds, Planning

From: Bruce A. Briney, ^{GAB}Public Works and Utilities

Subject: Administrative Amendment #02039, 4811 Mandarin Circle

Date: May 23, 2002

cc: Roger Figard
Nicole Fleck-Tooze
Randy Hoskins

The City Engineer's Office of the Department of Public Works and Utilities has reviewed the application for Administrative Amendment #02039 (4811 Mandarin Circle) and does not object to the waiver of design standards for sidewalks, street paving, curb and gutter, water distribution and street lights due to the rural cross-section of the existing roadway and contingent upon the continued agreement of the owners not to object to a Special Assessment District.

Any waiver of design standards for street trees requires approval of the Department of Parks and Recreation, Forestry Division.

Memo



To: Jason Reynolds, Planning Department

From: Mark Canney, Parks & Recreation

Date: June 3, 2002

Re: 4811 Mandarin Circle AAO2039

Staff members of the Lincoln Parks and Recreation Department have conducted a plan review of the above-referenced application/proposal and have the following comments:

1. Waiver of street trees granted due to the existing trees in the front yard of the property. Adequate room to plant additional street trees is not available.

If you have any additional questions, comments or concerns, please feel free to contact me at 441-8248. Thank you.



Lincoln

Nebraska's Capital City

June 14, 2002

Jason Reynolds
Lincoln/Lancaster County Planning Department
555 South 10th Street
Room 213
Lincoln, NE 68508

RE: Waiver of Design Standards # 02009
S. 84th St. & Mandarin Circle

Dear Jason:

The Lincoln-Lancaster County Health Department (LLCHD) has reviewed the request of Waiver of Design Standards #02009.

According to Lonnie Rich of the Lincoln Water System, city water is not yet available to the "Area of Application." However, if City Water does become available before construction of the homes begins, it is expected that these homes will be connected to City Water.

Any wells drilled to service the proposed homes will need to obtain a Biennial Well Permit from this department for each well.

At this time the LLCHD has no objections to the proposed Waiver.

If you have any questions, please contact this department at 441-8027

Sincerely Yours,

A handwritten signature in black ink, appearing to read "John J. Chess".

John J. Chess, REHS
Water Quality Program Supervisor
Environmental Public Health

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Keith Dubas Architect

May 20, 2002

Mr. Kent Morgan
Interim Planning Director
Planning Department
555 South 10th Street
Lincoln, Nebraska 68508

RE: Zoning Application

Dear Mr. Morgan:

Following a meeting with members of the Planning Department and Public Works the owner of the property at 4811 Mandarin Circle has decided to withdraw Special Permit #1830A Mandarin Court for a Community Unit Plan and request a standard Administrative Plat for subdivision with a reduced number of lots (reduced from 3 to 2 lots).

Attached is the Zoning application form for:

1. Request for waiver of Design Standards for street trees, sidewalks, street paving, curb and gutter, water distribution and street lights in association with Pioneer Heights 2nd Addition Final Plat.

The engineer is in the process of completing the drawing for the submission of the Administrative Plat and will submit that Application in the next few days.

We will be working with the Register of Deeds concerning the withdrawal of the CUP.

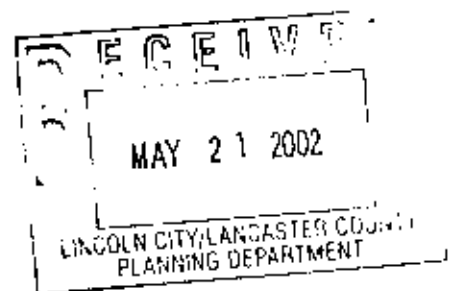
Please contact me regarding any questions that arise from the review of our applications.

Thank you.

Yours truly,

Keith Dubas

Copy: Richard Speidell



To: Lincoln City Council

Waiver of Design Standards # 02009

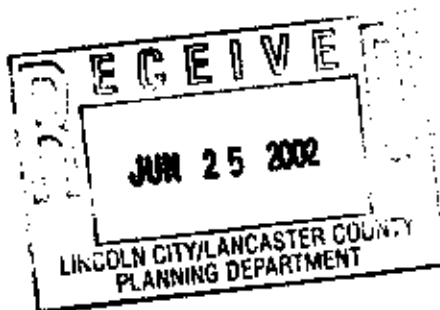
Mr. Chairman, members of the City Council,

I am writing as President of the Pioneer / Mar-Ma-Ra-Lo Heights Homeowners Association in support of the application to waive Design Standards at 4811 Mandarin Circle. The change to a standard subdivision of 2 lots conforms to the character of our neighborhood and we fully support this. It has been over 3 years since Mr. Spiedell began this process and to date nothing has been sold and the current house is still vacant. We see this as a move that will enable Mr. Spiedell to sell the properties and move on.

We do not support the condition 1.1 requiring the owners to agree not to object to creation of assessment districts. You can't take away a persons right to approve or not approve an assessment district that can affect them especially monetarily. It sounds like an attempt by the city to eventually force these districts on the neighborhood by eliminating opposition. We as a neighborhood should have the right to accept or oppose a district on it's merits and not because it was a condition of approval. We ask you to support this application without condition 1.1. Thank you for your support.

If you have any questions please contact me at 488-0447.

Sincerely Yours,
Gary Danek



RECEIVED
JUN 24 2002
CITY COUNCIL
OFFICE